

IN THE MISSOURI COURT OF APPEALS WESTERN DISTRICT

COMPLETE TITLE OF CASE

STATE OF MISSOURI,

Respondent,

v.

JONATHAN L. FIELDS,

Appellant.

DOCKET NUMBER WD78092

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: January 26, 2016

APPEAL FROM

The Circuit Court of Jackson County, Missouri
The Honorable Joel P. Fahnestock, Judge

JUDGES

Division II: Martin, P.J., and Pfeiffer and Mitchell, JJ.

CONCURRING.

ATTORNEYS

Chris Koster, Attorney General
Daniel N. McPherson, Assistant Attorney General
Jefferson City, MO

Attorneys for Respondent,

Timothy Forneris, Assistant Public Defender
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Attorney for Appellant.



MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

STATE OF MISSOURI,)
)
 Respondent,)
 v.) **OPINION FILED:**
) **January 26, 2016**
 JONATHAN L. FIELDS,)
)
 Appellant.)

WD78092

Jackson County

Before Division II Judges: Cynthia L. Martin, Presiding Judge, and Mark D. Pfeiffer and Karen King Mitchell, Judges

Jonathan Fields (“Fields”) drove the getaway vehicle for two passengers who were fleeing after attempting an armed robbery. Fields appeals his conviction and sentence, following a jury trial in the Circuit Court of Jackson County, Missouri (“trial court”). The jury found Fields guilty of one count each of attempted robbery in the first degree and armed criminal action, which were submitted on an accomplice liability theory, and of resisting a lawful stop, which was submitted on principal liability. The trial court sentenced Fields as a persistent offender to concurrent sentences of twenty-five years’ imprisonment for attempted robbery, ten years for armed criminal action, and seven years for resisting a lawful stop.

First, Fields asserts the MAI-approved verdict directing instructions for attempted robbery in the first degree erroneously instructed the jury on accomplice liability by adding at the end of the first paragraph: “The commission of an offense includes immediate flight therefrom.” He contends that section 562.041 limits accomplice liability to what happens “before and during” the crime, and flight as a continuation of the crime is not supported by the statute.

Second, Fields asserts his sentence totaling twenty-five years was excessive because it exceeded the State’s pre-trial ten-year sentence recommendation and because other participants in the crime received lesser sentences after pleading guilty.

AFFIRMED.

Division II holds:

1. Fields ignores the case law describing “getaway car” operation and “flight” in the “getaway car” as being an integral part of committing an underlying offense and supporting accomplice liability.

The Notes on Use ¶ 8 of MAI-CR 3d 304.04 provides that if there is evidence of assistance or encouragement occurring after the offense has been completed, and the defendant contends that the only aid, if any, provided by the defendant occurred after the offense was completed, the opening paragraph of the instruction is modified to add at the end: “The commission of an offense includes immediate flight therefrom.” The trial court did not err in submitting the State’s modified verdict directing instructions to the jury.

2. The record reflects that Fields had no remorse for the criminal conduct he was convicted of and, instead, he demonstrated a propensity to have telephone discussions with family members about the possibility of perpetrating other criminal endeavors in the future. There are no comments by the trial court or evidence in the record suggesting the possibility that the trial court improperly punished Fields for claiming innocence and exercising his constitutional right to proceed to trial. The trial court did not abuse its discretion in imposing the sentences.

Opinion by: Mark D. Pfeiffer, Judge

January 26, 2016

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